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A.No.4880 of 2023
in C.S.No.216 of 2023

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R.N.MANJULA, J

The suit has been filed by the plaintiff seeking recovery of a sum of US\$ 58,869/-(US Dollar Fifty Eight Thousand Eight Hundred and Sixty Nine Only) equivalent to Rs.48,84,361/- (Rupees Forty Eight Lakhs Eighty Four Thousand Three Hundred and Sixty One Only) along with interest @ 18% p.a. to be calculated @ 1US\$=Rs.82.97 and costs. The plaintiff has also sought a further relief of arrest and sale of the defendant Vessel MV KHALEJIA ANA 5 in as is where its condition, together with the engines, tackles, cranes, paraphernalia, fixtures, furniture and fittings, presently in Indian waters at Ennore Port, Chennai, Tamil Nadu State, India within the Jurisdiction of this Court and territorial waters of India and for a direction to adjust the sale proceeds of the defendant Vessel MV KHALEJIA ANA 5 against the suit claim and for costs.

2. The plaintiff is engaged in ship repairing and ship maintenance business at various ports across India having its principal place at Chennai. The defendant is the owner and person interested in the Vessel MV KHALEJIA ANA 5, flying a Panama Flag having IMO No.9221437 and



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with the call sign 3FHV4 now lying at the Ennore Port, Chennai represented by its Master. The registered owner of the said Vessel's registered owner is AL KHALEJIA MARINE INC having its office at Care of Al Khalejia Aggregates FZE, PO Box 30381, Ras al Khaimah, United Arab Emirates and the vessel is managed by AL KHALEJIA AGGREGATES FZE having the same address.

3. when the defendant's vessel was at port of Paradip, Orissa, India during the month of April 2023, the defendant engaged the plaintiff to provide repairing services as requested by him. As per the instructions of the defendant's Vessel Designated Person Ashore (DPA), the plaintiff had undertaken the repairing and maintenance of the Vessel between the period from 05.04.2023 to 07.07.2023 and had raised the following invoices:

<i>S.No</i>	<i>Date</i>	<i>Invoice No.</i>	<i>Net Amount (in US\$)</i>
1.	30.05.2023	ISR0022324	11,348
2.	03.06.2023	ISR0032324	3,699
3.	03.06.2023	ISR0042324	948
4.	03.06.2023	ISR0052324	3,699
5.	09.06.2023	ISR0062324	4,270
6.	19.06.2023	ISR0072324	43,863
7.	19.06.2023	ISR0082324	8,449
8.	30.06.2023	ISR0092324	11,349
		TOTAL	87,625



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4. The defendant is said to have made a part payments for US\$ 40,631 on various dates leaving a balance of US\$ 46,994. The plaintiff had rendered further repair and maintenance work at the order of the defendant and sent his quotation vide his e-mail dated 07.08.2023. So the plaintiff's technician who were placed at Chennai, have been given with air tickets to go to Bhubaneshwar in order to attend the repairing service of the Vessel which was stationed at Paradip Port, Orissa. For the above service rendered by the plaintiff the following invoices have also been raised:

<i>S.No</i>	<i>Date</i>	<i>Invoice No.</i>	<i>Net Amount (in US\$)</i>
1.	05.09.2023	ISRO112323	36960
2.	05.09.2023	ISRO112324	6300
3.	05.09.2023	ISRO122324	6090
		TOTAL	49350

5. On repeated demands made by the plaintiff, the defendant had made his part payment of US\$ 37,475 on various dates leaving a balance of US\$ 9,519 for the invoices raised between the period from 30.05.2023 to 30.06.2023. So the defendant is liable to pay US\$ 58869 towards balance charges payable to the plaintiff.

6. The documents available on record would show that various services rendered by the plaintiff to the defendant's Vessel and the invoices



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raised in this regard.

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7. The applicant has also filed an application to arrest the vessel MV KHALEJIA ANA 5, flying a Panama Flag having IMO No.9221437 and with the call sign 3FHV4 together with the engines, tackles, cranes, derricks, machinery and other paraphernalia and articles on board the said vessel, presently lying in the Ennore Port, Chennai or wherever she is found within the territorial waters of India, pending disposal of the above suit.

8. Mr.P.Giridharan, learned counsel for the applicant/plaintiff has submitted that the defendant's Vessel is scheduled to be arrived at Ennore Port today and that it is already there and that the Vessel is about to sail out after discharging her cargo. He further submitted that the plaintiff is being a small proprietor at Chennai, he cannot chase the owners in UAE and file recovery proceedings and hence he filed an application seeking an interim order of arrest of the defendant's vessel MV KHALEJIA ANA 5 which is at Ennore Port within the admiralty jurisdiction of this court.

9. The records produced before this Court and discussed above would



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show that a prima facie case has been made out and it is shown that the defendant has to pay a huge balance towards the repairing service rendered by the plaintiff at the order of the defendant on various occasions. If the vessel is not arrested as claimed by the applicant/plaintiff, the plaintiff would be find it impossible to chase behind the defendant, who is not residing within the local jurisdiction and initiate recovery proceedings.

10. As per section 4(m) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (herein after referred to as The Act), the service rendered towards construction, reconstruction, repair, converting or equipping of the vessel under the Act in maritime claim and for which the plaintiff can exercise maritime lien.

11. As per Section 5 of the Act an order of arrest of the Vessel which is within the admiralty jurisdiction of this court can be made for the purpose of providing security against a maritime claim. Since the applicant/plaintiff has made out a prima facie case for maritime claim and showed that the balance of convenience is in his favour, I feel in the circumstances of the suit an order of interim arrest as prayed by the plaintiff should be issued.



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12.Hence, there shall be an interim order of arrest of the Vessel MV KHALEJIA ANA 5, flying a Panama Flag having IMO No.9221437 and with the call sign 3FHV4 and now berthed at Ennore Port, Chennai within the jurisdiction of this Court along with her engines, tackles, cranes, derricks, machinery and other paraphernalia and articles.

13.The Registry is directed to communicate the interim order of arrest of the said Vessel to the Chairman and to the Traffic Manager of the said Port by way of email or any other mode. A copy of the order may also be served by the Bailiff of this Court. The order of arrest shall be in force till 22.09.2023.

14.Issue Notice to the respondent /defendant returnable by 22.09.2023. Private Notice is also permitted.

15. List the matter on 22.09.2023.

15.09.2023

jrs

Note : Registry is directed to Issue Warrant today itself.

Note: The order to be communicated through fax/email or any other method to :



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To

1. The Chairman,
Ennore Port, Chennai

2. The Traffic Manager,
Ennore Port, Chennai



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15.09.2023